Executive Summary

Connecticut's Whistleblower Law

Connecticut's whistleblower law was initially established in 1979 to provide state employees a safe channel for reporting corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority, or danger to public safety. This reporting process, known as whistleblowing, was viewed as a major step toward more effective state government.

The Legislative Program Review and Investigations Committee voted to undertake a study of *Connecticut's Whistleblower Law* in May 2009. The focus was on the process and structure currently in place to handle whistleblower complaints within state government. In particular, the study evaluated the approach taken by the appointed agencies to review whistleblower complaints including their statutory authority, timeframes, and reporting of outcomes.

The committee's study found that the present whistleblower system has operated in compliance with existing statutory requirements and has been effective on several levels. However, the current whistleblower process contains inefficiencies and several deficiencies in its structure, role, and responsibilities. Time-consuming and duplicative steps, poor communication with whistleblowers, and inadequate follow-up with agencies' responses to substantiated complaints are among some of the issues that jeopardize the State's ability to achieve the law's policy intent.

As part of the study, the committee reviewed the activities of the Offices of Public Accounts and the Attorney General, to determine how each is implementing its responsibilities to whistleblower matters. The committee found that each agency can make several improvements to better manage its whistleblower functions. In particular, operations can be improved by:

- Establishing a system to ensure more timely processing of whistleblower complaints;
- Raising public awareness of the appropriate type of reportable incidents;
- Instituting follow-up procedures to ensure that agencies take prompt, corrective action in substantiated cases; and
- Improving consistency and transparency of the system.

The committee recommends several management improvements which can be made immediately and others that may be considered at a later time. Once made, these improvements will allow the State to better achieve its policy objectives regarding the whistleblower matters including establishing credibility as a channel for bringing forth government wrongdoing and protecting whistleblowers from reprisals.

COMMITTEE RECOMMENDATIONS

1. **The State Auditors and the Attorney General shall continue to be responsible for handling whistleblower allegation reports. However, the current two-phase system set out in §4-61dd(a) shall be repealed. The State Auditors and the Attorney General shall develop a team approach (financial/legal) for handling of whistleblower matters. Together, through a memorandum of agreement, they will serve as joint coordinators (the Joint Team) in managing the timely resolution of whistleblower complaints. The Attorney General's subpoena authority and the confidentiality provisions shall remain.**

2. **The Joint Team should develop working definitions and examples of reportable incidents subject to Connecticut whistleblower law (§4-61dd), which should be published on both offices' websites.**

3. **The whistleblower statute should be amended to allow discretion in the acceptance of whistleblower complaints. At a minimum, the discretion should be granted if: the complainant has another available remedy which the individual could reasonably be expected to use; the complaint is trivial, frivolous, or not made in good faith; other complaints are more worthy of attention; office resources are insufficient for adequate investigation; or the complaint has been too long delayed to justify present examination of its merit.**

4. **The whistleblower statute should be amended to allow the Joint Team to develop and use additional criteria for screening and referring whistleblower matters to avoid overlapping jurisdiction with other entities, leverage existing state resources, and encourage timely resolution.**

5. **After the initial intake phase, a status update on all whistleblower matters must be conducted by the Joint Team at 90-day intervals until the investigation is complete and the case is closed.**

6. **Each investigation report containing substantiated whistleblower allegations or identified areas of concern must include recommended corrective action and implementation dates by the enforcement entity or the subject entity. Within a reasonable and appropriate time but no longer than a year, the Joint Team is required to follow up on enforcement action and to immediately report any non-compliance to the governor and annually to the legislature.**

7. **A statutory provision should require the Joint Team to report to the complainant, upon request, the outcome of a whistleblower investigation.**

8. **A summary of all whistleblower complaints results must be posted at regular six months intervals on the whistleblower unit(s)'s website. At a minimum,**

the results shall include a listing of whistleblower complaints by state agency or entity subject to the whistleblower statute; a brief description of the type of allegation made and date referred; current status of the complaint investigation including whether it is pending or complete; whether or not the allegation(s) have been substantiated wholly, partially, or not all; and if any corrective action has been taken.

9. **The Joint Team shall prepare an annual aggregate accounting of all whistleblower matters that includes the information required in the preceding recommendation. Such report shall be provided in an annual report to the legislature.**

10. **The Joint Team should place a high priority on improving its electronic case tracking/monitoring system.**

11. **The Joint Team shall develop minimum requirement guidelines for any investigative reports and follow-up enforcement reports. At a minimum, each investigative report should contain: the investigative methods used, documentation of supporting evidence, conclusions regarding the validity of each allegation, and any recommended corrective action with implementation dates (if applicable).**

12. **Staff assigned to whistleblower matters should be given the opportunity to pursue relevant investigative training within available resources.**

13. **An articulated whistleblower policy statement should be adopted.**

14. **At a minimum, the policies regarding whistleblower provisions and protections should be added to the DAS guide for state managers and a description, along with the newly adopted policy statement, be made available on the DAS website.**

15. **The state should place greater emphasis on encouraging state employees to disclose wrongful activities by more clearly informing agencies and employees of the state's whistleblower policy on the various state agency websites.**

16. **The state should increase efforts for public awareness and understanding of whistleblower laws. At a minimum, a statutory requirement should be made that each entity subject to the provisions of §4-61dd must post a notice of whistleblower provisions in a conspicuous place which is readily available for viewing by their employees.**

17. **The list of entities subject to §4-61dd whistleblower statutes should be amended to clearly articulate any exceptions to the scope of review.**

18. **An annual list of large state contractors should be prepared by the State**

Comptroller's Office.

19. **The statutory language contained in §4-61dd (b)(2) must clarify the State Auditors' involvement or non-involvement in reviewing whistleblower retaliation claims.**

20. **The 30-day filing requirement for whistleblower retaliation claims pursuant to §4-61dd(b)(3) should be extended to 90 days.**

21. **The statutory one year rebuttable presumption period for retaliation complaints established in §4-61dd(b)(5) should be extended to two years.**

22. **The human rights referees should be granted the authority to order temporary relief during the pendency of a hearing if the referee has reasonable cause to believe that a violation of the retaliation provision had occurred.**

23. **The human rights referee should have the discretion to allow reasonable amendments to a complaint alleging additional incidents. The amendment shall be filed not later than thirty days after the employee learns of the incident taken or threatened against the employee.**

24. **C.G.S.§4-61dd(b)(2) should be repealed in its entirety.**